**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE N.V. RAMANA**

WRIT PETITION No. 24291 of 2004

Between:

P. Lakshmi Bai, W/o. Late Sri Laxmipathi,
R/o. H.No. 10-8-108, Draupathi Temple, Chilkalguda,
Bolakpur Village, Secunderabad.

..... PETITIONER

AND

1 Union of India, rep. by its General Manager,
South Central Railway, Secunderabad.
2 The Estate Officer and Addl. Divisional Railway Manager,
Hyderabad Division, South Central Railway, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to Issue a writ order or direction more particularly one in the nature of Writ of Mandamus by declaring the impugned order dated. nil-11-2004 in Proceedings No. YW/274/WV/Evic., passed by the 2nd respondent as illegal, arbitrary and without jurisdiction and violative of principles of natural justice and consequently set-aside the same.

Counsel for the Petitioner : Mr.B.VIJAYSEN REDDY, Advocate

Counsel for the Respondent: Mr.G.S.SANGHI, SC FOR RAILWAYS

The Court at the stage of admission made the following:

**ORDER:**

Heard the learned counsel for petitioner and the learned Standing Counsel for Respondents.

The present writ petiton is filed challenging the order of eviction passed by the second respondent under Section 5(1) of the Public Premises Eviction of Unauthorised Occupants Act, 1971 vide impugned proceedings dated .11.2004.

The petitioner claims to be in possession of property house bearing No.10-8-108, Chilkalguda, Draupathi Temple, Secunderabad admeasuring 4876 sq.mtrs. It is stated that in the said land, a Draupathi Temple is in existence since more than 80 years and that petitioner's family members were managing the said temple and they were continued to be in possession of the said property. It is also stated that the respondents who were also claiming the property, without issuing any notice to the petitioner, have passed the impugned order of eviction of the petitioner purported to be under Section 5(1) of the Public Premises Eviction of Unauthorised Occupants Act, 1971. The learned counsel for petitioner submits that the impugned order was passed in arbitrary exercise of power and authority without following principles of natural justice.

The learned counsel for respondents submit that since the petitioner was unsuccessful in proving her title and possession over the property in question before various Courts, the impugned order was passed after issuing due notice in the leading newspapers on 10.10.2004 under the provisions of Public Premises Eviction of Unauthorised Occupants Act, 1971. He also submits that, against the impugned order, the petitioner has got an alternative remedy of appeal under

Section 9 of the said Act.

In the circumstances, the writ petition is disposed of granting leave and liberty to the petitioner to avail the remedy of appeal under Section 9 of the Public Premises Eviction of Unauthorised Occupants Act, 1971, against the impugned order of the second respondent dated .11.2004 within four weeks from today. Till such time, there shall be

Status quo as regards possession of the property shall be maintained by the parties. There shall be no order as to costs.

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N.V.RAMANA, J

Date: 27.12.2004

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To

1 The General Manager, Union of India, South Central Railway,

Secunderabad.
2 The Estate Officer and Addl. Divisional Railway Manager,
Hyderabad Division, South Central Railway, Secunderabad.

3 Two C.D.copies.